

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

In Re:	Henry H. & Melba L. Gilliam)	
	Dist. 16, Map 101, Control Map 101, Parcel 79.01)	Robertson County
	Residential Property)	
	Tax Year 2007)	

INITIAL DECISION AND ORDER

Statement of the Case

An appeal was filed with the State Board of Equalization on behalf of the taxpayers on August 1, 2007. The Robertson County Assessor of Property ("Assessor") has valued the subject property for tax purposes as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$21,300	\$0	\$21,300	\$5,325

The undersigned administrative judge conducted a hearing of this matter on December 12, 2007 in Springfield. In attendance at the hearing were the appellants, Henry and Melba Gilliam along with Chris Traughber, Assistant Assessor of Property for Robertson County.

Findings of Fact and Conclusions of Law

Subject property consists of a vacant parcel of land consisting of 1.6 acres located on Burr Road, a location in Robertson County, Tennessee.

The taxpayers contended that subject property should be valued at \$2,500 to \$3,000 per acre or between \$4,000 - \$4,800 in total. In support of this position, the taxpayers argue that the property is landlocked; they only have access through a neighbor's property.¹ Mr. Gilliam states that while the map may show frontage on Burr Road it is really so steep that "cutting a road would not be impossible but it is improbable" so they have to rely on the neighbor. They also state that the property is too small to build on (City planning requires 5 acres lots) and can only be used for a garden.

The assessor contended that subject property should remain valued at \$21,300. In support of this position, Mr. Traughber he relies on the value set by the County Board.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

¹ The Gilliam's use to own the adjacent parcel (79.00) but sold it to the neighbor, they stated that they have been told by that neighbor that he wants to buy the property 'some day' and if they agree to hold it for him they can get to their land through his land to get to theirs.

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$21,300 based upon the presumption of correctness attaching to the decision of the Robertson County Board of Equalization.

Since the taxpayer is appealing from the determination of the Robertson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the fair market value of subject property as of January 1, 2007 constitutes the relevant issue. The administrative judge finds that the Assessment Appeals Commission has repeatedly rejected arguments based upon the amount by which an appraisal has increased as a consequence of reappraisal. For example, the Commission rejected such an argument in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) reasoning in pertinent part as follows:

The rate of increase in the assessment of the subject property since the last reappraisal or even last year may be alarming but is not evidence that the value is wrong. It is conceivable that values may change dramatically for some properties, even over so short of time as a year. . .

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . . Final Decision and Order at 2. Moreover, the Assessment Appeals Commission has ruled that taxes are irrelevant to the issue of value. See *John C. & Patricia A. Hume*, (Shelby Co., Tax Year 1991).

Respectfully, the administrative judge finds that with Mr. and Mrs. Gilliam having no documentation to support their contention of value they have not met their burden of proof. No matter how unfortunate the circumstances are for this couple² the law must be followed.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$21,300	\$0	\$21,300	\$5,325

² Mr. and Mrs. Gilliam claim that they were 'tricked' into signing a quit claim deed which eliminated their Greenbelt status and consequently increased their property taxes.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 18th day of January, 2008.



ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Henry H. & Melba O. Gilliam
F.E. Head, Assessor of Property